

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 4:06-CR-776 CAS
)	
SHELBY L. SPIGHT,)	
)	
Defendant.)	

ORDER

This closed criminal matter is before the Court on defendant's motion to reduce sentence pursuant to 18 U.S.C. § 3582(c)(2).

On January 20, 2009, defendant filed a motion to reduce his sentence pursuant to 18 U.S.C. § 3582(c)(2). Based on the record, the Court finds that on August 16, 2007, defendant pleaded guilty to one count of possession with the intent to distribute 50 grams or more of cocaine base ("crack cocaine") (Count I). On November 29, 2007, defendant was sentenced to a term of imprisonment of 120 months, which is the mandatory minimum penalty pursuant to 21 U.S.C. § 841(b)(1)(A)(iii).

The Sentencing Commission has not, and cannot, alter a statutory mandatory minimum sentence. See Supplement to 2007 Guidelines Manual - March 3, 2008, § 1B1.10, App. Note 1(A) ("[A] reduction in the defendant's term of imprisonment is not authorized under 18 U.S.C. § 3582(c)(2) and is not consistent with this policy statement if . . . [an] amendment does not have the effect of lowering the defendant's applicable guideline range because of the operation of another . . . statutory provision (e.g., a statutory mandatory minimum term of imprisonment)."); see also United States v. Jones, 523 F.3d 881, 882 (8th Cir. 2008) (finding appellant ineligible for relief under retroactive amendments because original sentence imposed pursuant to mandatory minimum).

Defendant was sentenced to the statutory mandatory minimum sentence of 120 months on the crack cocaine charge, and therefore he is not eligible for a reduction in his sentence.

Accordingly,

IT IS HEREBY ORDERED that defendant's Motion to Reduce Sentence Pursuant to 18 U.S.C. § 3582(c)(2) is **DENIED**. [Doc. 34]

A handwritten signature in black ink, appearing to read "Charles A. Shaw", written over a horizontal line.

CHARLES A. SHAW
UNITED STATES DISTRICT JUDGE

Dated this 26th day of January, 2009.